

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                         |   |                    |
|-------------------------|---|--------------------|
| RALPH DUNCAN,           | ) |                    |
|                         | ) |                    |
| Petitioner,             | ) | 2:16-cv-561-NR-LPL |
|                         | ) |                    |
| v.                      | ) |                    |
|                         | ) |                    |
| SUPERINTENDENT BARRY R. | ) |                    |
| SMITH and THE ATTORNEY  | ) |                    |
| GENERAL OF THE STATE OF | ) |                    |
| PENNSYLVANIA,           | ) |                    |
|                         | ) |                    |
| Respondents.            | ) |                    |

**ORDER ADOPTING REPORT & RECOMMENDATION (ECF 17)**

Before the Court is Magistrate Judge Lisa Pupo Lenihan's Report and Recommendation (ECF 17), recommending that Petitioner Ralph Duncan's Amended Petition for a Writ of Habeas Corpus (ECF 8) be denied and that a certificate of appealability also be denied. Mr. Duncan was notified that, under 28 U.S.C. § 636(b)(1)(C) and Rule 72.D.2 of the Local Civil Rules, objections to the Report & Recommendation were due by no later than July 19, 2021. Mr. Duncan did not file any objections.

Upon a *de novo* review of the record and the Report & Recommendation, the Court will adopt the Report & Recommendation, in full.

Under the Antiterrorism and Effective Death Penalty Act of 1996, a federal habeas court may overturn a state court's resolution of the merits of a constitutional issue only if the state court decision was "contrary to, or involved an unreasonable application of clearly established Federal law, as determined by the Supreme Court of the United States." 28 U.S.C. § 2254(d)(1). AEDPA also provides for relief if an adjudication "resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C.

§ 2254(d)(2).

The Court finds no clear error in the Magistrate Judge's application of the AEDPA standard to the record in this case, and therefore enters the following order.

**AND NOW**, this **6th day of July 2022**, it is hereby **ORDERED** that the Report & Recommendation (ECF 17) is adopted as the Opinion of the Court.

The Court further orders as follows:

- (1) Mr. Duncan's Amended Petition for Writ of Habeas Corpus (ECF 8) is **DENIED**; and
- (2) A certificate of appealability is also **DENIED**.

BY THE COURT:

*/s/ J. Nicholas Ranjan*

United States District Judge